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through the FAR Secretariat to the Civilian Agency Acquisition Council.

[48 FR 42103, Sept. 19, 1983, as amended at 61 FR 67411, Dec. 20, 1996]

Subpart 1.5—Agency and Public Participation

SOURCE: 50 FR 2269, Jan. 15, 1985, unless otherwise noted.

1.501 Solicitation of agency and public views.

1.501-1 Definition.

Significant revisions, as used in this subpart, means revisions that alter the substantive meaning of any coverage in the FAR System having a significant cost or administrative impact on contractors or offerors, or a significant effect beyond the internal operating procedures of the issuing agency. This expression, for example, does not include editorial, stylistic, or other revisions that have no impact on the basic meaning of the coverage being revised.

1.501-2 Opportunity for public comments.

(a) Views of agencies and nongovernmental parties or organizations will be considered in formulating acquisition policies and procedures.

(b) The opportunity to submit written comments on proposed significant revisions shall be provided by placing a notice in the FEDERAL REGISTER. Each of these notices shall include—

(1) The text of the revision or, if it is impracticable to publish the full text, a summary of the proposal;

(2) The address and telephone number of the individual from whom copies of the revision, in full text, can be requested and to whom comments thereon should be addressed; and

(3) When 1.501-3(b) is applicable, a statement that the revision is effective on a temporary basis pending completion of the public comment period.

(c) A minimum of 30 days and, normally, at least 60 days will be given for the receipt of comments.

1.501-3 Exceptions.

(a) Comments need not be solicited when the proposed coverage does not constitute a significant revision.

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(b) Advance comments need not be solicited when urgent and compelling circumstances make solicitation of comments impracticable prior to the effective date of the coverage, such as when a new statute must be implemented in a relatively short period of time. In such case, the coverage shall be issued on a temporary basis and shall provide for at least a 30 day public comment period.

1.502 Unsolicited proposed revisions.

Consideration shall also be given to unsolicited recommendations for revisions that have been submitted in writing with sufficient data and rationale to permit their evaluation.

1.503 Public meetings.

Public meetings may be appropriate when a decision to adopt, amend, or delete coverage is likely to benefit from significant additional views and discussion.

Subpart 1.6—Career Development, Contracting Authority, and Responsibilities

1.601 General.

(a) Unless specifically prohibited by another provision of law, authority and responsibility to contract for authorized supplies and services are vested in the agency head. The agency head may establish contracting activities and delegate broad authority to manage the agency's contracting functions to heads of such contracting activities. Contracts may be entered into and signed on behalf of the Government only by contracting officers. In some agencies, a relatively small number of high level officials are designated contracting officers solely by virtue of their positions. Contracting officers below the level of a head of a contracting activity shall be selected and appointed under 1.603.

(b) Agency heads may mutually agree to—

(1) Assign contracting functions and responsibilities from one agency to another; and

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(2) Create joint or combined offices to exercise acquisition functions and responsibilities.

[60 FR 49721, Sept. 26, 1995]

1.602 Contracting officers.

1.602-1 Authority.

(a) Contracting officers have authority to enter into, administer, or terminate contracts and make related determinations and findings. Contracting officers may bind the Government only to the extent of the authority delegated to them. Contracting officers shall receive from the appointing authority (see 1.603-1) clear instructions in writing regarding the limits of their authority. Information on the limits of the contracting officers' authority shall be readily available to the public and agency personnel.

(b) No contract shall be entered into unless the contracting officer ensures that all requirements of law, executive orders, regulations, and all other applicable procedures, including clearances and approvals, have been met.

1.602-2 Responsibilities.

Contracting officers are responsible for ensuring performance of all necessary actions for effective contracting, ensuring compliance with the terms of the contract, and safeguarding the interests of the United States in its contractual relationships. In order to perform these responsibilities, contracting officers should be allowed wide latitude to exercise business judgment. Contracting officers shall—

(a) Ensure that the requirements of 1.602-1(b) have been met, and that sufficient funds are available for obligation;

(b) Ensure that contractors receive impartial, fair, and equitable treatment; and

(c) Request and consider the advice of specialists in audit, law, engineering, transportation, and other fields, as appropriate.

1.602-3 Ratification of unauthorized commitments.

(a) Definitions.

Ratification, as used in this subsection, means the act of approving an unauthorized commitment by an official who has the authority to do so.

Unauthorized commitment, as used in this subsection, means an agreement that is not binding solely because the Government representative who made it lacked the authority to enter into that agreement on behalf of the Government.

(b) *Policy.* (1) Agencies should take positive action to preclude, to the maximum extent possible, the need for ratification actions. Although procedures are provided in this section for use in those cases where the ratification of an unauthorized commitment is necessary, these procedures may not be used in a manner that encourages such commitments being made by Government personnel.

(2) Subject to the limitations in paragraph (c) of this subsection, the head of the contracting activity, unless a higher level official is designated by the agency, may ratify an unauthorized commitment.

(3) The ratification authority in subparagraph (b)(2) of this subsection may be delegated in accordance with agency procedures, but in no case shall the authority be delegated below the level of chief of the contracting office.

(4) Agencies should process unauthorized commitments using the ratification authority of this subsection instead of referring such actions to the General Accounting Office for resolution. (See 1.602-3(d).)

(5) Unauthorized commitments that would involve claims subject to resolution under the Contract Disputes Act of 1978 should be processed in accordance with subpart 33.2, Disputes and Appeals.

(c) *Limitations.* The authority in subparagraph (b)(2) of this subsection may be exercised only when—

(1) Supplies or services have been provided to and accepted by the Government, or the Government otherwise has obtained or will obtain a benefit resulting from performance of the unauthorized commitment;

(2) The ratifying official has the authority to enter into a contractual commitment;

(3) The resulting contract would otherwise have been proper if made by an appropriate contracting officer;